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May 14, 1999

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Magalie R. Salas, Esquire  
Secretary  
Federal Communications Commission  
Room TW-B204  
445 12th Street, S.W.  
Washington, DC 20554

Re: Supplement to Motion to Hold in Abeyance  
MM Docket No. 98-155  
RM-9082; RM-9133

Dear Ms. Salas:

Transmitted herewith on behalf of Chisholm Trail Broadcasting Co., Inc., are an original and four copies of its "Supplement to Motion to Hold in Abeyance," filed in the above-referenced allotment rulemaking proceeding.

Should any questions arise concerning this matter, please communicate directly with this office.

Very truly yours,  
FLETCHER, HEALD & HILDRETH, P.L.C.



Andrew S. Kersting  
Counsel for Chisholm Trail  
Broadcasting Co., Inc.

Enclosure

cc (w/ encl.): Certificate of Service (by hand & first-class mail)  
Mr. Dennis Williams (FCC) (by hand)  
Mr. Michael Wagner (FCC) (by hand)

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BEFORE THE

**Federal Communications Commission**

Federal Communications Commission  
Office of Secretary

WASHINGTON, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 98-155  
Table of Allotments, ) RM-9082  
FM Broadcast Stations ) RM-9133  
(Alva, Mooreland, Tishomingo, Tuttle, )  
and Woodward, Oklahoma) )

To: Chief, Allocations Branch

**SUPPLEMENT TO**  
**MOTION TO HOLD IN ABEYANCE**

Chisholm Trail Broadcasting Co., Inc. ("Chisholm"), licensee of Station KXLS(FM), Alva, Oklahoma, by counsel, hereby supplements its pending "Motion to Hold in Abeyance," filed April 1, 1999 ("Motion"), in the above-captioned proceeding. In support of this supplement, the following is stated:

Chisholm supplements its pending Motion to provide the Allocations Branch with the attached letter dated May 7, 1999, from Normal Goldstein, Chief, Complaints and Political Programming Branch, Enforcement Division, Mass Media Bureau, which is addressed to Ralph Tyler ("Tyler"), licensee of Station KTSH(FM), Tishomingo, Oklahoma, and South Central Oklahoma Christian Broadcasting, Inc. ("South Central"), permittee of Station KAZC(FM), Tishomingo.

Chisholm filed a complaint regarding Stations KTSH and KAZC with the FCC's Enforcement Division on March 15, 1999. Following the filing of responses to Chisholm's complaint by Tyler and South Central on April 13, 1999, Chisholm filed a reply to each response on

April 26, 1999. Less than two weeks later, the Enforcement Division issued the attached letter which contains a series of requests for specific information regarding the construction and/or operation of Stations KTSH and KAZC.


In its pending Motion, Chisholm requested the Allocations Branch to hold the instant FM allotment rulemaking proceeding in abeyance pending action by the Audio Services Division on its Informal Objection and supplement thereto, filed December 21, 1998, and January 20, 1999, respectively (collectively, "Informal Objection"), against the pending license application for Station KAZC (File No. BLED-981002KA). Contemporaneously herewith, Chisholm is filing a supplement to its Informal Objection to provide the Audio Services Division with a copy of the attached FCC letter, and request that Tyler's and South Central's responses to the FCC Enforcement Division's May 7, 1999, letter be considered in connection with Chisholm's Informal Objection to the pending KAZC license application.

Chisholm is filing this supplement to its pending Motion and submitting the attached FCC letter in this allotment rulemaking proceeding in an effort to formally advise the Allocations Branch that Chisholm's allegations regarding Stations KTSH and KAZC currently are being investigated by the FCC's Enforcement Division. In light of the pending FCC investigation concerning Stations KTSH and KAZC, Chisholm reiterates its request that this proceeding be held in abeyance pending action by the Audio Services Division on Chisholm's Informal Objection to the pending KAZC license application.

WHEREFORE, in light of the foregoing, Chisholm Trail Broadcasting Co., Inc., respectfully requests that the Allocations Branch hold this FM allotment rulemaking proceeding in abeyance pending action by the Audio Services Division on the Informal Objection filed against the pending license application for Station KAZC(FM), Tishomingo, Oklahoma (File No. BLED-981002KA).

Respectfully submitted,

CHISHOLM TRAIL BROADCASTING CO., INC.

By:   
Kathleen Victory  
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.  
1300 North Seventeenth Street  
11th Floor  
Arlington, Virginia 22209  
(703) 812-0400

May 14, 1999

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**ATTACHMENT**

MAY 07 1999

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

IN REPLY REFER TO:  
1800C1-JWS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Ralph Tyler  
Licensee, KTSH(FM)  
5105 S. Shields Boulevard  
Oklahoma City, Oklahoma 73129

South Central Oklahoma Christian Broadcasting, Inc.  
Permittee, KAZC(FM)  
Route 5, Box 119  
Ada, Oklahoma 74820

Dear Licensee/Permittee:

The Commission has received information which raises questions about certain representations made by Ralph Tyler ("Tyler") with regard to Station KTSH(FM), Tishomingo, Oklahoma. Those representations and related circumstances, in turn, raise questions about a representation made in the application of South Central Oklahoma Christian Broadcasting, Inc. ("SCOCB") for the license to cover the construction of Station KAZC(FM), Tishomingo, Oklahoma. Finally, the representations of Tyler and SCOCB, when considered in conjunction with allegations from Chisholm Trail Broadcasting Co., raise questions about compliance with staffing requirements for KAZC's main studio.

The Commission has not reached any determination with respect to these matters. However, in order that we may be more fully informed, we request answers to the questions asked herein.

I. By letter dated October 1, 1998, Tyler represented to the Commission that "due to antenna failure on September 28, 1998, the operation of KTSH(FM) has been temporarily suspended." On October 29, 1998, KTSH engineer Randall C. Mullinax ("Mullinax") apparently informed an FCC inspector that the "bullet in the lower bay [of the antenna] had failed." Information submitted to the Commission indicates, however, that Mullinax deliberately took the station off the air and donated some of KTSH's equipment to KAZC with Tyler's knowledge and that none of the antenna bays for KTSH had been damaged prior to removal of the lowest bay by Mullinax. In view of the foregoing:

1. Who drafted the October 1, 1998, letter referenced above?

2. Who decided to temporarily suspend the operations of KTSH?
3. When was that decision made?
4. Who decided to donate KTSH equipment to KAZC?
5. What KTSH equipment was to be donated?
6. When was it decided that KTSH equipment was to be donated to KAZC?
7. When was the equipment actually donated?
8. When and how did KTSH communicate to KAZC that equipment was to be donated?
9. What understanding did anyone connected with KTSH have as to when KAZC was going to have a lease agreement for facilities at KAZC's specified tower site? Explain how such understanding was acquired, and identify the persons with the understanding.
10. Who authorized the retuning of KTSH's transmitter?
11. When was that decision made?
12. If Tyler did not make that decision, when was that decision communicated to Tyler?
13. Who authorized the removal of the bottom bay of KTSH's antenna?
14. When was that decision made?
15. If Tyler did not make that decision, when was that decision communicated to Tyler?
16. Did anyone connected with KTSH ever communicate to the Commission that the October 1, 1998, letter, did not completely and accurately relate why KTSH's operations were temporarily suspended? If yes, state when and how such information was communicated to the Commission. If not, explain why not.
17. Who is the FCC inspector referenced in the December 10, 1998, "Declaration of Randall C. Mullinax (which appears as an attachment to the December 14, 1998, "Response of Ralph Tyler")?"
18. When and how was it communicated to the FCC that information given by Mullinax to the FCC inspector (as described in his December 10, 1998, Declaration) was inaccurate?
19. Who authorized the repair of KTSH's facilities after it had ceased broadcasting in September 1998?
20. When did such occur?
21. Describe the steps taken to restore KTSH's facilities.
22. When did KTSH resume broadcasting?
23. What program service did KTSH use upon resumption of broadcast operations?

II. The construction permit application for KAZC (File No. BPED-970127MD) represented that the center of radiation for KAZC's 3-bay antenna would be at the same height above ground as the center of radiation for KTSH's 6-bay antenna (*i.e.*, 77 meters). It further represented that the KAZC antenna would be located on the opposite side of the tower from the KTSH antenna. The permit authorized construction of the requested facilities. KAZC's license application (File No. BLED-981002KA) represented that there were no differences between the facilities authorized in the KAZC

construction permit and the constructed facilities. However, it appears that KAZC commenced operations on September 29, 1998, with a single bay antenna located on the same side as the KTSH antenna at a height lower than that authorized. In view of the foregoing:

1. Explain why the KAZC license application represented there were no differences between the authorized and the constructed facilities.
2. When did anyone on behalf of KAZC enter into a lease for that station for space at the station's designated tower site?
3. Who on behalf of KAZC negotiated for space at the station's designated site?
4. When did such negotiations commence?
5. Provide a copy of the lease agreement for KAZC.
6. With respect to the 3-bay antenna described in KAZC's construction permit application, what efforts were made by anyone on behalf of KAZC to obtain such an antenna prior to October 2, 1998? As to any efforts described, identify all persons referenced, including any title(s) they hold in SCOCB.
7. When did anyone connected with KAZC learn that the antenna initially used for the station was not the antenna described in the construction permit application?
8. When was the KAZC antenna mounted at the location authorized in the station's construction permit?

III. Information submitted to the Commission indicates that the individual(s) responsible for the operation of KTSH immediately prior to its shutdown on September 28, 1998, may have been the same as those responsible for KAZC's operation when it commenced broadcasting on September 29, 1998. Moreover, it appears that KAZC did not have a full-time employee at the station until as late as January 18, 1999, when Mike Huddleston ("Huddleston") became a full-time general manager. In view of the foregoing:

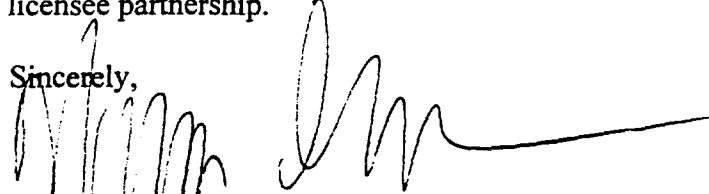
1. Describe how Station KAZC has complied with the main studio staffing requirements enunciated in *Jones Eastern of the Outer Banks, Inc.*, 7 FCC Rcd 7309 (1992); 10 FCC Rcd 3759 (1995) from September 29, 1998, to the date of this letter.

Pursuant to Section 73.1015 of the Commission's Rules, you are requested to respond to this inquiry. Please respond within thirty (30) days of the date of this letter. Failure to answer fully will constitute a violation under Section 73.1015 of our rules and may subject you to serious sanctions. Commission policy requires that responses to its



inquiries be signed by the licensee (or permittee), an officer or director of a licensee corporation, or a general partner of a licensee partnership.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Norman Goldstein', with a long horizontal flourish extending to the right.

Norman Goldstein, Chief  
Complaints and Political Programming Branch  
Enforcement Division  
Mass Media Bureau

cc: Gary S. Smithwick, Esq.  
William H. Crispin, Esq.  
Andrew S. Kersting, Esq.

### **CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 14th day of May, 1999, copies of the foregoing "Supplement to Motion to Hold in Abeyance" were hand delivered or mailed first-class, postage pre-paid, to the following:

Roy J. Stewart\*  
Chief, Mass Media Bureau  
Federal Communications Commission  
The Portals II, Room 2-C347  
445 Twelfth Street, S.W.  
Washington, DC 20554

John A. Karousos, Chief\*  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
The Portals II, Room 3-A266  
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Washington, DC 20554

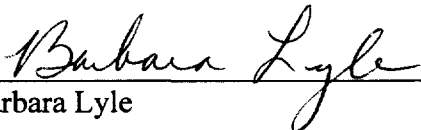
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Federal Communications Commission  
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\* Hand Delivered